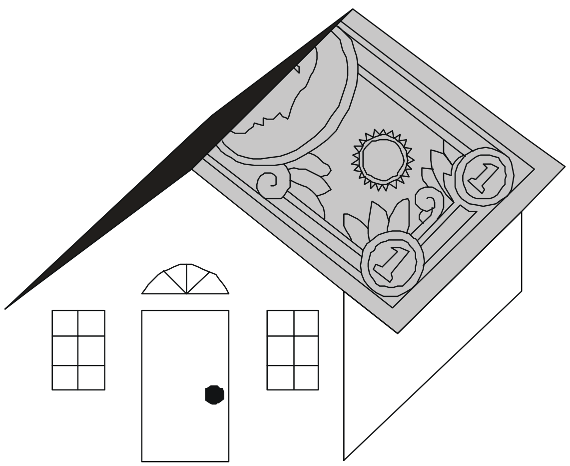
Facts
for Consumers

Mortgage Servicing



Federal Trade Commission	Toll-free 1-877-FTC-HELP
www.ftc.gov	For the Consumer

When you apply for a home mortgage, you may think that the lender, or loan originator, will service the loan until it is paid off or your house is sold. This is not always true. In today's market, mortgage servicing rights often are bought and sold.

If you are notified that your home mortgage servicing has been sold to another company, you may wonder how it will affect your loan terms and monthly payments. Some consumers have complained that they were not given enough notice of loan servicing transfers and were unfairly charged late fees and penalties.

In 1990, the National Affordable Housing Act was passed to address some of these concerns. This brochure explains what a mortgage servicer does and what your rights are under the Housing Act. It also tells what you can do if you have a complaint about the transfer of your loan servicing.

What are the responsibilities of a Mortgage Servicer?

The mortgage servicer collects your monthly payments and handles your escrow account. An escrow account is a fund that your lender establishes in order to pay property taxes and hazard insurance as they become due on your home during the year. In this way, the lender uses the escrow account to guard its investment in your home.

When your escrow account is first established, your mortgage servicer must give you a statement telling you the estimated taxes, insurance premiums and other charges that are anticipated over the next 12 months and the expected totals of those payments.

The mortgage servicer also is required to give you an annual statement that details the activity of your escrow account. This statement shows your account balance and reflects payments for property taxes and homeowners insurance.

What does the Housing Act Require Lenders or Servicers To Do?

To protect consumers, the National Affordable Housing Act requires lenders or servicers to do the following.

- **Provide a disclosure statement.**

The disclosure statement says whether the lender intends to sell the mortgage servicing immediately; whether the mortgage servicing can be sold at any time during the life of the loan; and the percentage of loans the lender has sold previously. During 1992, lenders had to disclose the percentage of loans for which the servicing was sold in 1990 and 1991. Beginning in 1993, lenders must report figures for the previous three years. The percentages should be noted in the ranges 0-25%, 26-50%, 51-75%, and 76-100%. The lender also must provide information about servicing procedures, transfer practices, and complaint resolution.

If you have a face-to-face interview with a lender, you must receive the disclosure statement at the time of the loan application. If you apply for a loan by mail, the lender has three business days to send you the disclosure statement after receiving your application. If you do not return a signed disclosure statement, the lender cannot fund a mortgage for you.

- **Give proper notification when the loan servicing is going to be sold.**

If your current servicer plans to sell your loan servicing, you must be notified at least 15 days before the effective date of the transfer unless you received a written transfer notice at settlement. The effective date is when the first mortgage payment is due at the new servicer's address.

Under certain circumstances, the current servicer has up to 30 days *after* the effective date of the transfer to send you notification. These circumstances include:

- The lender terminates the contract because, for example, you have defaulted on the loan.
- The servicer files for bankruptcy.
- The Federal Deposit Insurance Corporation or the Resolution Trust Corporation begins proceedings to take over the servicer's operations.

- **Include certain information in the notice.**

If your loan servicing is going to be sold, you should receive two notices—one from the current servicer and one from the new mortgage servicer. The new servicer must notify you not more than 15 days *after* the transfer has occurred. The notices must include the following information:

- The name and address of the new servicer.
- The date the current servicer will stop accepting mortgage payments, and the date the new servicer will begin accepting them.
- Free or collect call telephone numbers for both the current servicer and the new servicer that you can call for information about the transfer of service.
- Information that tells whether you can continue any option insurance, such as mortgage life or disability insurance, and what action, if any, you must take to maintain coverage. You also must be told whether the insurance terms will change.
- A statement that the transfer will not affect any terms or conditions of your mortgage documents, *except* the terms that are directly related to the servicing of the loan. For example, if under your contract, you specifically were allowed to pay property taxes and insurance premi-

ums on your own, the new servicer cannot demand that you establish an escrow account. However, if your contract was neutral on this issue or merely limited the actions of your *old* lender, the new servicer may be able to require such an account.

- **Grant a grace period during the transfer of the loan servicing.**

After the transfer, there is a 60-day grace period. During this time you cannot be charged a late fee if you mistakenly send your mortgage payment to the old mortgage servicer instead of the new one. In addition, the fact that your new servicer may have received your payment late cannot be reported to a credit bureau.

- **Respond promptly to written inquiries.**

If you believe you have been improperly charged a penalty or late fee, or there are other problems with the servicing of your loan, contact your servicer in writing. Be sure to include your account number and explain why you believe your account is incorrect.

Within 20 business days of receiving your inquiry, the servicer must send you a written response acknowledging your inquiry. Within 60 business days, the servicer must either correct your account or determine it is accurate. The servicer must send you a written notice of what action it took and why.

Do **not** subtract any disputed amount from your mortgage payment. Many mortgage servicers will refuse to accept what they consider to be partial payments. They may return the check and charge a late fee, or declare the mortgage is in default and start foreclosure proceedings.

What Can You Do If You Have a Complaint?

If you believe the servicer has not responded appropriately to your written inquiry, contact your local or state consumer protection office. You also should contact the Department of Housing and Urban Development (HUD) to file a complaint under the National Affordable Housing Act. Write: Office of Single Family Housing, HUD, Room 9282, Washington, DC 20410.

You also may wish to contact the FTC about your complaint. Although the FTC cannot represent you directly in a dispute with a company, it can act when it sees a pattern of possible law violation. Contact the Consumer Response Center by phone: toll-free 1-877-FTC-HELP (382-4357); TDD: 202-326-2502; by mail: Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580; or by email: use the complaint form at **www.ftc.gov**.

You also may want to contact an attorney to advise you of your legal rights. Under

the National Affordable Housing Act, consumers can initiate class action suits and obtain actual damages, plus additional damages, for a pattern or practice of noncompliance. In successful actions, consumers also may obtain court costs and attorneys fees.